



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

**Notice of Decision**

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007698

[REDACTED]

Dear [REDACTED],

On August 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s February 23, 2016, eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
  - NY State of Health Appeals
  - P.O. Box 11729
  - Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and NY State of Health Account ID at the top of this notice.

**Legal Authority**

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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## Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007698

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you were eligible for the Essential Plan effective March 1, 2016?

## Procedural History

On December 18, 2015, NY State of Health (NYSOH) issued an eligibility determination notice finding you and your spouse eligible to enroll in the Essential Plan effective January 1, 2016. The notice explained that you no longer qualified for Medicaid as of December 31, 2015. The notice stated you could choose a health plan at that time. The notice stated your household income of \$16,500.00 was below the allowable income limit for the Essential Plan. Additionally, you were in the first five years of your qualified immigration status or are living in the United States under the color of law (PRUCOL).

On December 19, 2015, a disenrollment notice was issued terminating you and your spouse's enrollment in your Medicaid Managed care plan effective December 31, 2015.

Also on December 19, 2015, an enrollment confirmation notice was issued confirming you and your spouse's enrollment in the Essential Plan 3, with \$0.00 per month premium responsibility starting January 1, 2016.

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On January 13, 2016, NYSOH issued a renewal notice stating that it was time to renew your NYSOH health coverage. Based on the information from state and federal data sources, a decision could not be made about whether or not you qualified for financial assistance. You were asked to update the information in your account by February 15, 2016, so a decision could be made. If you missed this deadline, the financial assistance you were receiving could end.

On February 22, 2016, NYSOH received your updated application for financial assistance.

On February 23, 2016, an eligibility determination notice was issued finding you and your spouse eligible to enroll in the Essential Plan effective March 1, 2016. The notice stated your household income of \$18,000.00 was below the allowable income limit for the Essential Plan. Additionally, you were in the first five years of your qualified immigration status or are living in the United States under the color of law (PRUCOL).

Also on February 23, 2016, an enrollment confirmation notice was issued confirming you and your spouse's enrollment in the Essential Plan 3 with a premium responsibility of \$0.00 per month effective March 1, 2016.

On March 4, 2016, you contacted NYSOH's Account review Unit and requested an appeal of that eligibility determination insofar as you were no longer considered eligible for Medicaid.

On March 19, 2016, Aid to Continue was granted for the length of your appeal. A notice was issued explaining your eligibility effective January 1, 2016. Your Aid to Continue status would be in effect for the length of your appeal. You were subsequently enrolled in a Medicaid Managed Care plan effective January 1, 2016.

On July 28, 2016, a Notice of Telephone Hearing was issued for a hearing on August 16, 2016 at 2:00 p.m.

A Hearing Officer from the NYSOH's Appeals Unit called you on August 16, 2016 and you testified you were unable to proceed with a hearing at that time. An adjournment was granted for August 19, 2016 at 9:00 a.m.

On August 19, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide documentation showing your lawful permanent residence in the form of your I-551 Permanent Resident Card. On August 23, 2016, the NYSOH Appeals Unit received a two page copy of your I-551 Permanent Resident card front and back which has been incorporated into the record as (Appellant's Exhibit 1).

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## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) Your application states, and your testimony confirms that you expect to file your 2016 taxes with a tax filing status of married filing jointly.
- 2) You are seeking insurance for yourself.
- 3) You are seeking to be found eligible for Medicaid.
- 4) You were previously enrolled in a Medicaid Managed Care plan through NYSOH until December 31, 2015.
- 5) Your application states you are an immigrant non-citizen.
- 6) You provided a copy of your I-551 Permanent Resident Card to the NYSOH Appeals Unit on August 23, 2016 (Appellant's Exhibit 1 pg. 2).
- 7) Your I-551 Permanent Resident Card shows you have been a resident since January 18, 2012 (Appellant's Exhibit 1 pg. 2).
- 8) You testified that you are in the first four years of having the status of a lawful permanent resident.
- 9) The application that was submitted on January 26, 2016, and February 2, 2016, which requested financial assistance, listed annual household income of \$18,000.00, consisting of income your spouse earns from employment. You testified that this amount was correct.
- 10) Your application states that you live in Queens County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their

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immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

### Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective January 1, 2016.

The application that was submitted on February 22, 2016 listed an annual household income of \$18,000.00 and the eligibility determination relied upon that information.

According to your application, you are in a two-person household. You expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between

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0% and 200% of the FPL. Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual income of \$18,000.00 is 112.99% of the 2015 FPL, you meet the financial eligibility criteria for both Medicaid and the Essential Plan.

However, you testified that you are a permanent resident, and have had permanent resident status for four years. You further provided a copy of your I-551 Permanent Resident Card which shows you have been a resident since January 18, 2012. As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. Therefore, because you are in your first five years of permanent residency, NYSOH properly determined that you do not meet the non-financial requirements for Medicaid.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage.

Therefore, since the February 23, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

## **Decision**

The February 23, 2016, eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** August 30, 2016

## **How this Decision Affects Your Eligibility**

You are no longer eligible for Medicaid effective January 1, 2016.

You are eligible for the Essential Plan.

## **If You Disagree with this Decision (Appeal Rights)**

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 23, 2016, eligibility determination notice is **AFFIRMED**.

You are no longer eligible for Medicaid effective January 1, 2016.

You are eligible for the Essential Plan.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

